

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CORNELIUS BROWN, )  
                        )  
Plaintiff,         )  
                        )  
v.                    )  
                        )  
PAUL RODREGUEZ, Case )  
Manager,             )  
                        )  
Defendant.         )

4:14CV3071

**MEMORANDUM  
AND ORDER**

This matter is before the court on its own motion. On June 24, 2014, the court ordered Plaintiff Cornelius Brown to file an amended complaint that stated “whether his claim is against [Defendant Paul] Rodriguez in his official or individual capacity, and [] sufficiently allege[d] an Eighth Amendment claim against Rodriguez.” (Filing No. [9 at CM/ECF p. 7.](#)) Brown filed his Amended Complaint (Filing No. [28](#)) on April 29, 2015. Upon review of Brown’s Amended Complaint, the court finds Brown’s Eighth Amendment claim against Rodriguez in his individual capacity may proceed to service of process.

IT IS THEREFORE ORDERED that:

1. Brown’s Eighth Amendment claim against Paul Rodriguez in his individual capacity may proceed to service of process.
2. All other claims against Rodriguez remain dismissed for the reasons provided in the court’s order dated June 24, 2014; likewise, all other claims against all other Defendants remain dismissed for the reasons provided in the court’s order dated June 24, 2014. (*See* Filing No. [9](#).)
3. The clerk of the court is directed to send to Brown a copy of the Amended Complaint, a copy of this Memorandum and Order, and one summons form

and one USM 285 Form for service on Brown in his individual capacity. (*See* attached Notice Regarding Service.)

Federal Rule of Civil Procedure 4(m) requires service of the complaint on a defendant within 120 days of filing the complaint. However, Plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process.

4. If requested to do so in this matter, the United States Marshals Service will serve all process in this case without prepayment of fees from Brown. In making such a request, Brown must complete the USM 285 form and submit it to the clerk of the court, together with the completed summons form. Without these documents, the Marshals Service will not serve process. Upon receipt of the completed forms, the clerk of the court will sign the summons form and forward it to the Marshals Service for service on Rodriguez, together with a copy of the Amended Complaint. In the event Brown asks the Marshals Service to serve process, the clerk of the court will make a copy of the Amended Complaint for service on Rodriguez.

5. The clerk of the court is directed to set the following pro se case management deadline: October 28, 2015: check for completion of service.

DATED this 2<sup>nd</sup> day of July, 2015.

BY THE COURT:

*Richard G. Kopf*  
Senior United States District Judge

---

\*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.

### **Notice Regarding Federal Rule of Civil Procedure 4**

Federal Rule of Civil Procedure 4 requires that a defendant be served with the complaint and a summons. This is to make sure that the party you are suing has notice of the lawsuit. Federal Rule of Civil Procedure 4(e) governs service of process on an individual.

You may ask the United States Marshals Service to serve process, as described in the court's order, because you are proceeding *in forma pauperis*.